

## REMARKS


Claims 1-12 are pending in this application. In the Office Action, the Office alleges that the application contains claims drawn to two distinct inventions: claims 1-12, drawn to a method of making a semiconductor device, and claims 13-19, drawn to a semiconductor device. By this amendment, Applicants have amended the application to include a statement of government license rights.

This application has been made subject to a restriction requirement under 35 U.S.C. § 121. In particular, the Office alleges that "the product as claimed can be made by another and materially different process in which a barrier layer made of a binary layer having In is formed over the substrate."

Applicants respectfully traverse this decision and assert that a search for the method would necessarily encompass a search for the device. Specifically, both the device and method relate to a nitride based heterostructure device. Further, the process described in the Office Action is encompassed by the method claimed in claims 1 and 4. Accordingly, a search for the method would necessarily encompass a search for the device. Nevertheless, Applicants hereby provisionally elect claims 1-12, with traverse.

Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



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